

COMMERCE: Palmer, Chair: Gronstal, Peterson, Holden and Tieden

SENATE FILE 2118
BY GRONSTAL

FEB 5 1996

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act authorizing the sale of title insurance for certain types
2 of real property.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2118

1 Section 1. Section 515.48, Code Supplement 1985, is
2 amended by adding the following new subsection following
3 subsection 9 and renumbering the subsequent subsection:

4 NEW SUBSECTION. Insure against loss or damage by reason of
5 defects in or liens or encumbrances on the title of real
6 property, or the unmarketability of the title to real
7 property, or the invalidity or unenforceability of liens or
8 encumbrances upon real property, to the extent permitted by,
9 and subject to, rules adopted by the commissioner. The
10 commissioner shall adopt rules regulating title insurance in
11 this state. The rules shall include, but need not be limited
12 to, the following provisions:

13 a. A limitation that insurance shall not be permitted to
14 be sold or issued on a single family or two family residence
15 with a market value of less than one hundred thousand dollars.

16 b. Minimum capital requirements for title insurers.

17 c. Annual report requirements.

18 d. Regulation of premium charges pursuant to section
19 515.150.

20 e. Minimum requirements for the establishment and mainte-
21 nance of reserves.

22 f. Maximum limitations on retained liability.

23 g. Conditions of licensing of agents.

24 h. Approval of policy forms.

25 i. A prohibition against payment of fees to persons other
26 than licensed insurance agents and providing that an officer,
27 director, or employee of a lending institution which extends
28 credit secured by real property or a subsidiary or a company
29 under common ownership or control shall not, in connection
30 with the credit transaction or during the time the credit is
31 outstanding, receive or become entitled, as a licensed agent,
32 to a fee or commission on title insurance covering an interest
33 in real property.

34 j. A requirement that the title insurance policy be based
35 upon a reasonable search of the appropriate records relating

1 to the title such as disclosed by an abstract of title and
2 that any abstract of title in existence covering the land
3 shall be delivered or returned by the insurer to the owner of
4 the land or the party designated by the owner.

5 Sec. 2. Section 515.48, subsection 10, Code Supplement
6 1985, is amended to read as follows:

7 10. Insure any additional risk not specifically included
8 within any of the foregoing classes, which is a proper subject
9 for insurance, is not prohibited by law or contrary to sound
10 public policy, and which, after public notice and hearing, is
11 specifically approved by the commissioner of insurance, ~~except~~
12 ~~title-insurance-or-insurance-against-loss-or-damage-by-reason~~
13 ~~of-defective-title, encumbrances-or-otherwise.~~ When such the
14 additional kind of insurance is approved by the commissioner,
15 the commissioner shall designate within which classification
16 of risks provided for in section 515.49 it shall fall.

17 Sec. 3. NEW SECTION. 515.150 TITLE INSURANCE RATES.

18 1. Title insurance rates shall be set so that:

19 a. Rates are not excessive, inadequate, or unfairly dis-
20 criminatory.

21 b. Due consideration is given to past and prospective loss
22 experience within and outside Iowa; to a reasonable margin for
23 underwriting profit and contingencies; to dividends, savings,
24 or unabsorbed premium deposits allowed or returned by insurers
25 to their policyholders, members, or subscribers; to past and
26 prospective expenses within and outside Iowa; and to other
27 relevant factors.

28 c. The systems of expense provisions included in the rates
29 for use by an insurer or group of insurers may differ from
30 those of other insurers or groups of insurers to reflect the
31 requirements of the operating methods of the insurer or group
32 of insurers with respect to any kind of insurance, or with
33 respect to a subdivision or a combination of insurers for
34 which separate expense provisions are applicable.

35 2. Except to the extent necessary to comply with

1 subsection 1, paragraph a, uniformity among insurers in a
2 matter within the scope of this section is neither required
3 nor prohibited.

4 3. An insurer shall file with the commissioner all
5 manuals, minimum or class rates, rating schedules, or rating
6 plans, and every other rating rule, and every modification of
7 a rate, schedule, plan, or rule which the insurer proposes to
8 use. A filing shall state the proposed effective date of the
9 filing and indicate the character and extent of the coverage
10 contemplated.

11 4. The commissioner shall review filings as soon as
12 reasonably possible after the filings are made to determine
13 whether they meet the requirements of this section.

14 5. A filing shall be on file for a waiting period of
15 fifteen days before it becomes effective. The waiting period
16 may be extended by the commissioner for an additional period,
17 not to exceed fifteen days, if the commissioner gives written
18 notice to the insurer which made the filing within the waiting
19 period that the commissioner needs the additional time for the
20 consideration of the filing. Upon written application by the
21 insurer, the commissioner may authorize a filing which the
22 commissioner has reviewed to become effective before the
23 expiration of the waiting period or an extension of the
24 waiting period. A filing shall be deemed to meet the
25 requirements of this section unless disapproved by the
26 commissioner within thirty days of receipt of the filing by
27 the commissioner.

28 6. Upon the written application of the insured, stating
29 reasons, filed with and approved by the commissioner, a rate
30 in excess of that provided by a filing otherwise applicable
31 may be used on any specific risk.

32 7. An insurer shall not make or issue a contract or policy
33 except in accordance with the filings which are in effect for
34 the insurer as provided in this section.

35 8. If within the waiting period or an extension of the

1 waiting period the commissioner finds that a filing does not
2 meet the requirements of this section, then the commissioner
3 shall send to the insurer which made the filing a written
4 notice of disapproval of the filing. The notice shall specify
5 the reasons the filing fails to meet the requirements of this
6 section and state that the filing shall not become effective.
7 In addition, the notice shall comply with section 17A.12.

8 When a filing is not accompanied by the information with
9 which the insurer supports the filing, and the commissioner is
10 unable to determine whether the filing meets the requirements
11 of this chapter, the commissioner shall require the insurer to
12 furnish the supporting information and in that event the
13 waiting period shall commence as of the date the information
14 is furnished. The information furnished in support of a
15 filing may include:

16 a. The experience or judgment of the insurer making the
17 filing.

18 b. The interpretation of the insurer making the filing of
19 any statistical data upon which the insurer relies.

20 c. The experience of other insurers.

21 d. Other relevant information.

22 A filing and the supporting information is open to public
23 inspection after the filing becomes effective.

24 9. If at any time subsequent to the waiting period the
25 commissioner determines that there are questions as to whether
26 a filing meets the requirements of this section, the
27 commissioner shall send a written notice to the insurer which
28 made the filing that a hearing will be held to review the
29 filing. The hearing shall be held not less than ten days
30 after the date of mailing the notice. The notice and hearing
31 shall comply with sections 17A.12 and 17A.13. If after the
32 hearing the commissioner finds that the filing does not meet
33 the requirements of this section, then the decision issued
34 pursuant to sections 17A.15 and 17A.16 shall state when the
35 filing is no longer effective. The decision shall not affect

1 a contract or policy made or issued prior to the date when the
2 filing is to be no longer effective.

3 10. A person alleging to be aggrieved with respect to a
4 filing which is in effect may make written application to the
5 commissioner for a hearing on the filing. The application
6 shall specify the grounds to be relied upon by the applicant.
7 The application shall show that the person making the
8 application has a specific economic interest affected by the
9 filing. The commissioner shall hold a hearing upon finding
10 that the application is made in good faith, that the applicant
11 has a specific economic interest, that the applicant would be
12 so aggrieved if the applicant's grounds are established, and
13 that the grounds otherwise justify holding a hearing. The
14 commissioner shall send the applicant and the insurer a notice
15 of the hearing, which shall be held not less than ten days
16 from the date of mailing the notice and not more than thirty
17 days from the date the commissioner receives the application.

18 If after the hearing the commissioner finds that the filing
19 does not meet the requirements of this section, then the deci-
20 sion issued pursuant to section 17A.15 shall specify in what
21 respects the commissioner finds that the filing fails to meet
22 the requirements of this section, and shall state when the
23 filing is no longer effective. The decision shall not affect
24 a contract or policy made or issued prior to the date when the
25 filing is no longer effective.

26 11. A filing shall not be disapproved if the rates
27 contained in the filing meet the requirements of this section.

28 Sec. 4. Section 535.8, subsection 2, paragraph b, subpara-
29 graph (4), Code Supplement 1985, is amended to read as
30 follows:

31 (4) ~~Abstracting~~ Title insurance premiums and abstracting
32 fees paid to a third party, or when the abstracting is per-
33 formed by the lender, a fee which is a reasonable estimate of
34 the expense incurred by the lender in performing the ab-
35 stracting.

